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*Attorneys for Defendants Paul Oakland, Jr. and
Oakland Improvements, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

MIDWEST FAMILY MUTUAL
INSURANCE COMPANY,

Plaintiff,

v.

OAKLAND IMPROVEMENTS,
INC., PAUL OAKLAND, JR., and
TIMOTHY KING,

Defendants.

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) Cause No. _____
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) **NOTICE OF REMOVAL**
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Defendants Paul Oakland, Jr. and Oakland Improvements, Inc. (collectively, Oakland) hereby give notice of the removal of the above-entitled civil action from the Montana Sixteenth Judicial District Court, Custer County, to the United States District Court for the District of Montana, Billings Division, under 28 U.S.C. §§ 1332, 1441, and 1446. Oakland states that removal is proper for the following reasons:

GROUND FOR REMOVAL

1. On March 16, 2021, Midwest Family Mutual Insurance Company filed a civil complaint in the Montana Sixteenth Judicial District Court, Custer County, Case No. DV-21-23, seeking a declaratory judgment and monetary relief against Defendants.

2. Defendants Oakland Improvements, Inc. and Paul Oakland, Jr. were served through counsel of record on April 7, 2021. Accordingly, this notice of removal is filed within the thirty-day period of time prescribed by 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6(a)(1)(C).

3. Under 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings and orders served on Oakland in the state-court action are attached as Exhibit A.

4. Plaintiff Midwest Family Mutual Insurance Company is a mutual insurance company and an Iowa corporation, organized under the laws of the state of Iowa, with its principal place of business in the state of Iowa. The underlying Complaint incorrectly labeled Midwest Family Mutual Insurance Company as being a Minnesota company. *See* Ex. A, Compl., ¶ 1.

5. Defendant Oakland Improvements, Inc., is a Montana corporation with its principal place of business in Miles City, Montana. *See* Ex. A, Compl., ¶ 2.

6. Defendant Paul Oakland, Jr. is an individual that resides in Miles City, Montana. *See* Ex. A, Compl., ¶ 3.

7. Defendant Timothy King is an individual that resides in Miles City, Montana. *See* Ex. A, Compl., ¶ 4.

8. The parties to this action are, therefore, citizens and residents of different states and meet the diversity of citizenship requirements set forth in 28 U.S.C. § 1332(a)(1).

9. The amount in controversy exceeds \$75,000. Plaintiff has asserted a claim for declaratory judgment and monetary relief related to a dispute over insurance coverage stemming from Timothy King's

claims for breach of contract, construction defect under Mont. Code Ann. § 70-19-428, breach of the implied covenant of good faith and fair dealing, negligent construction, breach of the implied covenant of habitability, breach of the implied warranty of workmanlike construction, negligent misrepresentation and punitive damages. See Ex. A, Compl., ¶¶ 9-12.

10. Counsel for Oakland has contacted counsel for Defendant Timothy King regarding this notice of removal. King consents to removal.

11. This action is a civil action which may be removed by Oakland to the United States District Court pursuant to 28 U.S.C. § 1441 because it is a civil action brought in a state court and this Court has original jurisdiction under 28 U.S.C. § 1332(a).

12. In accordance with 28 U.S.C. § 1446(d) and Local Rule 3.3(a), Oakland is filing a copy of this notice with the Clerk of the Montana Sixteenth Judicial District Court, Custer County.

WHEREFORE, Defendants Paul Oakland, Jr. and Oakland Improvements, Inc. give notice under 28 U.S.C. § 1446 of the removal of this action formerly pending as Case No. DV-21-23 in the Montana

Sixteenth Judicial District Court, Custer County, to this Court, and that further proceedings in this action be conducted in this Court as provided by law.

Dated: April 27, 2020

Respectfully submitted,

/s/ Bryan M. Kautz

Bryan M. Kautz

RITCHIE MANNING KAUTZ PLLP

*Attorneys for Defendants Paul
Oakland, Jr. and Oakland
Improvements, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2021, a copy of the foregoing document was served on the following by CM/ECF:

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/s/ Bryan M. Kautz
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